

REMARKS

Applicant has carefully reviewed the Decision on Appeal mailed September 5, 2008, wherein the rejection of claims 1-11, 13 and 35-41 was affirmed. In the Final Office Action of August 2, 2006, claims 1-11, 13, 14, and 35-41 remain pending in the application, wherein claims 1-11, 13 and 35-41 have been rejected and claim 14 has been withdrawn from consideration consequent an Examiner-induced requirement for restriction. Favorable consideration of the following remarks is respectfully requested.

Claim Amendments

In the Decision on Appeal, the interpretation of the term "over" given in the Final Office Action was sustained by the board. In this light, Applicant has amended independent claims 1, 35 and 40 to more particularly claim what Applicant regards as the invention. Support for the amendment may be found, for example, in Figure 13. Claim 8 has been amended to correct a minor grammatical inconsistency. No new matter has been introduced by these amendments.

Claim Rejections

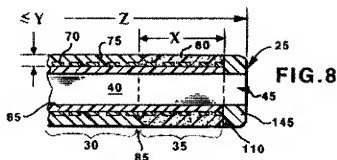
Claims 1, 11, 13 and 35-41 stand rejected under 35 U.S.C. §102(e) as being anticipated by Noone et al., U.S. Patent No. 6,591,472. Applicant respectfully traverses this rejection.

Claim 1, as amended, recites in part:

subsequent to cutting through the braid layer and the inner lubricious liner, securing a second polymer segment over the braid layer, the second polymer segment being positioned such that a proximal end of the second polymer segment is proximal the distal end of the first polymer segment and a distal end of the second polymer segment extends distally of the cutting position.

As claimed, the second polymer segment has a proximal end proximal of the distal end of the first polymer segment and a distal end that extends distally of the cutting position. Applicant respectfully asserts Noone et al. at least fail to teach this aspect of claim 1.

In rejecting claim 1, reference to Figure 8 of Noone et al., which is reproduced below, is made.



It can be seen from the Figure that Noone et al. do not teach a second polymer segment as claimed. The soft distal tip 145 does not have a proximal end that extends proximally of the distal end of another polymer segment. To the contrary, distal tip 145 is distal all other components of the device.

Thus, for at least this reason Noone et al. fail to meet the all the limitations of claim 1. Withdrawal of the rejection of claim 1, as well as claims 11 and 13 which depend from claim 1 and add significant additional limitations, is respectfully requested.

Claim 35 recites “subsequent to removing the inner layer, the reinforcement layer, and the securement layer distally of the cutting location, securing a polymeric outer segment over at least the securement layer such that a portion of the polymeric outer segment extends distally of the cutting location and such that the curved outer surface of the securement layer is at least partially covered by the polymeric outer segment.” To cover a curved outer surface of the securement layer (which surface, as claimed, must be “proximal a distal end of the securement layer”), a polymeric outer segment would have to be at least partially proximal the distal end of the securement layer. The distal tip of Noone et al. is not. At most, the distal tip of Noone et al. covers a flat distal surface of the securement layer, which surface is also not proximal the distal end.

Thus, for at least this reason Noone et al. fail to meet the all the limitations of claim 35. Withdrawal of the rejection of claim 35, as well as claims 36-39 which depend from claim 35 and add significant additional limitations, is respectfully requested.

Claim 40 recites “securing a second polymer segment over the catheter sub-assembly, the second polymer segment being positioned such that a proximal end of the second polymer segment is proximal the cutting location and a distal end of the second polymer segment extends

distally of the distal end of the catheter sub-assembly.” For the reasons discussed above with respect to claim 1, Noone et al. fail to disclose all the elements of this claim as well.

Thus, for at least this reason Noone et al. fail to meet the all the limitations of claim 40. Withdrawal of the rejection of claim 40, as well as claim 41 which depends from claim 40 and adds significant additional limitations, is respectfully requested.

Claims 2-5, 7 and 9-10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Noone et al., U.S. Patent No. 6,591,472, in view of Wilson, U.S. Patent No. 5,951,929. Applicant respectfully traverses this rejection. Claims 2-5, 7 and 9-10, which depend from claim 1 and which include significant additional limitations, are believed similarly patentable over the cited art. Shortcomings of Noone et al. are discussed above regarding claim 1. Wilson fails to remedy the noted shortcomings of Noone et al. Therefore, a *prima facie* case of obviousness has not been established with the cited combination. Withdrawal of the rejection is respectfully requested.

Claim 6 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Noone et al., U.S. Patent No. 6,591,472, and Wilson, U.S. Patent No. 5,951,929, in view of Zadno-Azizi, U.S. Patent Publication No. 2004/0015150. Applicant respectfully traverses this rejection. Claim 6, which depends from claim 1 and which includes significant additional limitations, is believed similarly patentable over the cited art. Shortcomings of Noone et al. are discussed above regarding claim 1. Neither Zadno-Azizi nor Wilson is believed to remedy the noted shortcomings of Noone et al. Therefore, a *prima facie* case of obviousness has not been established with the cited combination. Withdrawal of the rejection is respectfully requested.

Claim 8 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Noone et al., U.S. Patent No. 6,591,472, in view of Ashiya et al., U.S. Patent No. 5,947,925. Applicant respectfully traverses this rejection. Claim 8, which depends from claim 1 and which includes significant additional limitations, is believed similarly patentable over the cited art. Shortcomings of Noone et al. are discussed above regarding claim 1. Ashiya et al. fail to remedy the noted shortcomings of Noone et al. Therefore, a *prima facie* case of obviousness has not been established with the cited combination. Withdrawal of the rejection is respectfully requested.

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

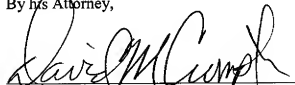
Respectfully submitted,

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By his Attorney,

Date: _____

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